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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,335	11/06/2000	Mark Ryan	W2100/197718	9472

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EXAMINER
LE, KHANH H

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/707,335

**Applicant(s)**

RYAN ET AL.

**Examiner**

Khanh H. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 and 38-64 is/are pending in the application.
- 4a) Of the above claim(s) 16-24, 44-64 is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 38-43 is/are rejected.
- 7) ☒ Claim(s) 49 is/are objected to.
- 8) ☒ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/23/04</u> | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u>             |

### **Non-Final Action**

#### ***Continued Examination Under 37 CFR 1.114***

1a. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/28/05 has been entered.

Claims 1-24, 38-64 are pending. Claims 1, 11, 16, 38, 44, 48, 62 are independent.

Pursuant to agreement to a previous restriction requirement, under 35 U.S.C. 121, claims 1-10, 11-15, and 38-43, (Group II a) are herein examined.

### **Claim Objections**

1b. It is noted that Claim 49 is labeled (original). It should be relabeled 'withdrawn'.

### **Response to Arguments**

2. Applicants arguments have been considered but are largely moot as new art rejections are applied.

3. **Requirement for Information Under 37 C.F.R. § 1.105**

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A. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

B. In view of the dates printed on Figures 11A and 11B of the specifications, namely April 12, 2000, as a date of publication, several months before the filing date of the instant application (November 06, 2000), a question of public use under 35 U.S.C. 102(b) is raised.

Thus, Applicant is hereby requested to submit all evidence regarding the use of the claimed invention.

In response to this requirement, please provide:

1) the dates and the extent to which the claimed invention was put into use by the Applicant and to demonstrate with any relevant documentation, specifically, that the use is experimental and not subject to the 35 USC 102(b) statutory bar for public use more than one year prior to the date of filing of the Application.

2) the citation and a copy of each publication which any of the applicants authored or co-authored and which describe the disclosed subject matter.

3) the names of any products or services that have incorporated the claimed subject matter

C. The fee and certification requirements of 37 C.F.R. § 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 C.F.R. § 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 C.F.R. § 1.105 are subject to the fee and certification requirements of 37 C.F.R. § 1.97.

D. In responding to those requirements that require copies of documents, where the document is a bound text or a single article over 50 pages, the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in the requirement, or where such subject matter is not indicated, the subject matter found in applicant's disclosure.

E. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete response to the requirement for that item.

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F. A complete response to this Office action must include a complete response to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action, which is THREE months.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless*

*(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.*

*The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).*

**5. Claims 1-2, 5-8, 11-13,15 are rejected under 35 U.S.C. 102(e) as being anticipated Cohen, US 6236330.**

As to claims 1, 2, 11, 12, 15, Cohen discloses

a mobile display system comprises one or more movable billboard displays,

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equipped with externally viewable display panels and a controller. The display is moved from location zone to location zone by a transporter which may comprise a person or a vehicle. The controller ascertains the display location and drives the display to generate a publicly viewable message selected for viewing within such location zone. An advertiser may communicate with the network for creating and changing message content and scheduling data.

At col.4 lines 6-65, Cohen discloses monitors connected to the mobile display which monitor location and weather conditions and messages are varied based on those monitored conditions.

As such Cohen at least implicitly discloses claims 1, 2, 11, 12, 15

A method of selectively delivering data over a network to a consumer's device, comprising:

tagging data (advertisements of goods and services) to weather conditions so that a first set of data associated with one weather condition differs from a second set of data associated with a second weather condition (see at least col.4 lines 6-65: tagging of ads to specific weather conditions is implied to effect this disclosure );

receiving real-time weather data for a plurality of geographic locations

determining a geographic location associated with the consumer's device

determining the real-time weather data that associated with the geographic location of the consumer's device

selecting and transmitting the advertising that corresponds to the weather conditions for the consumer's via the network (see at least abstract, Figs. 1-4 and associated text; col.4 lines 6-65).

As to claims 5 and 6, Cohen discloses user location determined from information available at the consumer's device, or available through the network (see at least abstract, Figs. 1-4 and associated text; col.4 lines 6-65).

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As to claims 7-8, Cohen discloses the user's device comprises a computer, a hand-held device (see at least abstract, Figs. 1-4 and associated text; col.4 lines 6-65).

As to claim 13, Cohen discloses targeted ads by weather type, by geographic location, or any combination thereof based on local weather determined in real-time (see at least col.4 lines 6-65).

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**7. Claims 3-4, 9-10, 14, 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen in view of Schwoegler.**

As to claim 3 and 4, Cohen does not disclose a small consumer device. However, Schwoegler discloses small consumer devices to which all kinds of individualized information are sent by user request or automatically (col. 1 lines 35-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the larger consumer device of Cohen with a small one to allow individualizing the messages as taught by Schwoegler.

Further, SCHWOEGLER discloses tagging recommendations or commands to the weather conditions and transmitting recommendations/commands corresponding to the current weather conditions of the consumer's device (see at least Figs. 19 and associated text: "alerts" is interpreted as recommendations for actions and also as commands such as in cases of government-ordered evacuations due to tornadoes, floods or the likes ). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to add this feature

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of SCHWOEGLER to Cohen to allow alerts based on instantly monitored weather conditions because such alerts are valuable to the individual user.

As to claim 9, neither reference specifically disclose:  
the consumer device being a mobile radiotelephone However , SCHWOEGLER discloses a user receiving weather-related data specific to their location on wireless mobile electronic devices such as cellular telephones, over the internet (see at least col.1 lines 10-17).

It is admitted, “ personal digital assistants (PDAs), lap-top computers, and mobile radiotelephones are all able to provide wireless access to the Internet. Additionally, Internet 20 access is also being made available through television, such as WebTV, enhanced TV, or digital TV.” (see Specifications , p. 4) Thus one skilled in the arts would have known to add to the Cohen/SCHWOEGLER’s system the above admitted art-equivalent devices, that all allow connection via the Internet, to extend Cohen/SCHWOEGLER Internet-applicable invention to those devices, as technology produces more of them.

As to claim 10, Cohen does not disclose but Schwoegler discloses the user’s device comprises a TV product (see at least col.1, lines16-17: “via television to mobile or fixed electronic devices”). As discussed above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the larger consumer device of Cohen with a small one to allow individualizing the messages as taught by Schwoegler.

As to claim 14, Cohen does not disclose but SCHWOEGLER discloses sending weather and location-based data based on as small a geographical area as possible (see at least col. 2 lines 15-26; 51-55) for increased precision and therefore value of the data. It would have been obvious to one skilled in the art at the time the invention was made to add to Cohen tagging ads based on a smallest geographic region encompassing the user location to increase the precision and therefore the value of the data as taught by SCHWOEGLER.



As to claim 38, 39, and 42, Cohen discloses monitoring the weather at the user location, (see claim 1 above), while SCHWOEGLER discloses associating each of plural recommendations (alerts) with at least one trigger (precipitation or lightning, and also based on severe weather monitoring ) (see at least col. 7 lines 27-39; col. 10 lines 40-53), determining trigger able conditions and transmitting the alerts to the user (see at least col. 7 lines 27-39) over the Internet (see at least col.1 lines 10-17). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to add such association of recommendations to the weather, in particular severe weather conditions, to the actual monitored weather conditions as taught by Cohen to allow relaying useful critical weather-based recommendations as taught by SCHWOEGLER.

As to claim 40, SCHWOEGLER discloses recommendations (alerts) based on the location, and the consumer (see at least col. 7 lines 27-39: the location determines the weather, which determines the alerts, and only requesting users get the alerts, so it's based on the user; also see (see at least col. 10 lines 62+ ). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add such association of recommendations to the weather, in particular severe weather conditions, to the actual monitored weather conditions as taught by Cohen to allow relaying useful critical weather-based recommendations as taught by SCHWOEGLER.

As to claim 41 (dependent on claim 38), and 43, SCHWOEGLER discloses identifying the consumer based on their interests (see at least col. 13 lines 42-45). and enabling the consumer to define the trigger able conditions (see at least col. 7 lines 28-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the above features to Cohen to allow individualizing the useful messages based on those features as taught by SCHWOEGLER.

### **Conclusion**

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8. Prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Harrison, III et al, US 5642484, discloses Point-of-sale information distribution and presentation wherein environmental conditions such as humidity, rain, and/or temperature may be sensed by environmental sensors and linked to automated devices in order to display particular information during particular conditions. Windshield wiper advertisements, rain tire advertisements and similar ads may, for instance, be appropriate during rainy periods as sensed by environmental sensors (FIG. 3).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

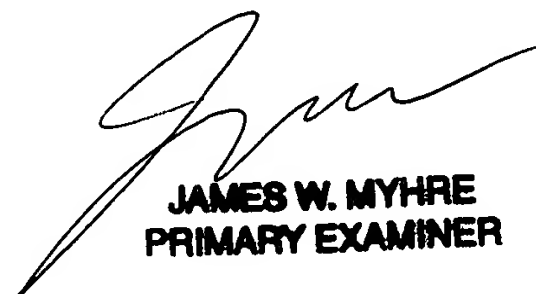
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 22, 2005

KHL

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**JAMES W. MYHRE**  
**PRIMARY EXAMINER**